

Circular 3678

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Obligations and Responsibilities of Charities to the Australian Charities and Not-for-profits Commission (ACNC)

Attention: Branch and Club Presidents

Actioned by: Steven Pearce SLSNSW CEO

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Summary	Adherence to the ACNC reporting requirements is essential to ensure SLS entities retain their ACNC Registration as a charitable entity.
Key Strategic Goal	Strengthen and Streamline - A financially sustainable and resilient organisation that continually delivers value through efficiencies and innovation
Action	Branch and Clubs are to ensure they undertake mandatory ACNC reporting by the required deadlines

The following information is essential for each Branch and Club to understand and action with respect to their Charity registration with the ACNC. SLSNSW is aware of some clubs who have failed to lodge required information in a timely manner which has resulted in their registration being revoked. We are also aware of a number of other clubs who are at risk of the same due to late and/or non-lodgement of information. Further, we have also been assisting several clubs who have had random reviews undertaken of their governance documentation by the ACNC as part of their compliance program.

To that end, compliance with ACNC reporting and reporting timelines will be a mandatory requirement of the annual SLSNSW compliancy program going forward.

As each SLS entity in NSW is a Charity on the ACNC Register, each entity **must** adhere to certain obligations and responsibilities in accordance with the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*.

It is worth noting that when a charity breaches its reporting obligations, it may have its registration revoked. Implications of revocation are significant - when the ACNC revokes charity status, it removes an organisation's entitlement to access Commonwealth charity tax concessions and the charity will need to apply to re-register as a charity. Our experience of clubs who have been required to undertake this process, is that it is difficult very time consuming and indeed there is no guarantee the registration will be returned.

To remain eligible to be registered, charities must notify the ACNC (via the ACNC Charity Portal – click [here](#)) if any of the following details change:

- legal name (this should include Inc or Incorporated or Limited if your entity is a company but has not received an exemption to not use Limited);
- address for service¹ (the primary address to which the ACNC will send a charity all correspondence) – the most convenient and efficient way to make sure you do not miss important messages and notifications from the ACNC is to provide the ACNC with a generic email address (rather than an individual's email address) as your charity's address for service and give more than one person in your organisation access to the email account;
- Responsible Persons² (people who are members of your charity's governing body including directors or committee members or its trustees) – you need to let the ACNC know if someone takes on or finishes the role of a Responsible Person; and
- governing document (such as its constitution, rules or trust deed).

Charities must also submit to the ACNC an Annual Information Statement (**AIS**) (as well as an annual financial report if they are medium or large in size³) every year. The AIS is due within **six months**⁴ of the end of a charity's reporting period and is submitted online in the ACNC Charity Portal. Charities that fail to submit their AIS on time are liable to:

- pay administrative penalties⁵;
- have an overdue statement published by the ACNC on the charity's register; and
- face other compliance action (including having its charity registration revoked by the ACNC) - this will result in the Australian Taxation Office removing your charity's entitlement to charity tax concessions.

For more information on reporting periods, please click [here](#).

¹ The timeframe to notify the ACNC of changes to the address for service is either 28 days or 60 days depending on your charity's size (see fn 3 below).

² Responsible Persons can be:

Charity structure	Who its Responsible Persons may be
Incorporated association (usually incorporated under state or territory law)	Each of the members of the committee of management of the association
Company limited by guarantee or other company under Corporations Act 2001 (Cth)	Each of the directors of the company

You may be used to terms like 'company secretary' or 'public officer' under other legislation. People may hold these roles in your charity but may not be Responsible Persons.

³ Your charity's financial reporting and other obligations to the ACNC depend on whether it is considered a small, medium or large charity. The size of your charity is based on its total annual revenue for the period upon which it is reporting. Small charities have annual revenue under \$250,000; Medium charities have annual revenue of \$250,000 or more but under \$1 million; Large charities have annual revenue of \$1 million or more.

⁴ Please note for charities that report on a regular 1 July to 30 June financial year, the ACNC extended the deadline to submit the 2020 AIS to 31 January 2021. And for those groups with a reporting period that ends between 30 June 2020 and 29 September 2020, the ACNC extended the reporting due date to 31 March 2021.

⁵ Examples of administrative penalties that apply to charities who fail to lodge a AIS by its due date can be found [here](#).

While the home page on the ACNC Charity Portal may indicate that “*Charity reporting is up to date*”, you should double check the due date for your charity’s next AIS on the ACNC Charity Register under the “*Financials & Documents*” tab to see which AIS has been submitted to date.

There has also been a shift in eligibility requirements with some funding bodies regarding grant funding in that eligibility either requires your ACNC reporting requirements to be up to date or that your organisation has never defaulted. We expect this trend will continue and therefore encourage clubs to ensure their ACNC records are maintained annually. This could become part of your AGM standard agenda when submitting final reporting.

In NSW most SLS entities are Incorporated Associations, and whilst annual reporting can be lodged singularly to the ACNC who will pass on the required information to the NSW Department of Fair Trading, any changes to a club’s name, Constitution, Public Officer, address/contact details etc must be also forwarded to the NSW Department of Fair Training directly.

For further information, please visit www.acnc.gov.au or contact Ian Fullagar -SLSNSW General Counsel (ifullagar@slsa.asn.au) or Susan Ahmelman -SLS Foundation (sahmelman@slsfoundation.com.au) to discuss. Alternatively, you can contact Phil Ayres at the SLSNSW office (payres@surflifesaving.com.au)